

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

UNITED STATES OF AMERICA )  
                               )  
v.                           ) INDICTMENT NO. CR109-073  
                               )  
SEQUOYAH ELAM,           )  
                               )  
Defendant.                )

**GOVERNMENT'S MOTION FOR DOWNWARD DEPARTURE**  
**PURSUANT TO U.S.S.G. § 5K1.1 AND 18 U.S.C. §3553(e)**

COMES NOW the United States of America, by and through Edward J. Tarver, United States Attorney for the Southern District of Georgia, and the undersigned Assistant United States Attorneys and moves the Court for a downward departure from the applicable sentencing guidelines based on the defendant's substantial assistance to the government, and shows the Court as follows:

**Summary of Defendant's Cooperation**

After entering a guilty plea in this case, the defendant cooperated with the government and provided substantial assistance in the investigation and prosecution of other persons. Specifically, the defendant has provided information about other individuals, both charged and as yet uncharged, involved in the marijuana and cocaine trafficking business. Defendant has also provided grand jury testimony related to ongoing federal investigations, and is required to continue his cooperation by testifying as needed in any related cases prosecuted in the future.<sup>1</sup>

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<sup>1</sup> Notably, in exchange for the Defendant's entry of a guilty plea, and in anticipation of his truthful cooperation, Defendant has already received a sentencing benefit through the government's agreement to dismiss a conspiracy charge against him, and forebear filing an enhancement under 21 U.S.C. § 851.

Given the level of Defendant's cooperation to date and his willingness to testify as needed in the future, the government characterizes Defendant's cooperation as MODERATE.<sup>2</sup>

The government will be available to provide more detailed information concerning defendant's assistance as the Court directs.

**Citation of Authority**

U.S.S.G. § 5K1.1 provides as follows:

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

- (1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
- (5) the timeliness of the defendant's assistance.

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<sup>2</sup> Using this scale: Exceptional, Very Significant, Significant, Moderate, and Minimal.

WHEREFORE, the government respectfully requests that this Court consider the government's characterization of the defendant's cooperation and depart downward as the Court deems appropriate in imposing sentence.

Respectfully submitted this 1<sup>ST</sup> day of June, 2010.

s/ Brian T. Rafferty

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s/ Nancy C. Greenwood

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**CERTIFICATE OF SERVICE**

This is to certify that I have on this day served all parties in this case in accordance with the notice of electronic filing (“NEF”) which was generated as a result of electronic filing in this Court.

William J. Sussman  
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Augusta, GA 30901

s/ Nancy C. Greenwood  
Nancy C. Greenwood  
Assistant United States Attorney